

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

----- X  
GUY T. MITCHELL,

Plaintiff,

08 Civ. 4319 (JES)

- against -

CARBON CAPITAL II, INC.,

Defendant.  
----- X

USDC SDNY  
DOCUMENT  
ELECTRONICALLY FILED  
DOC #:  
DATE FILED: 5/28/08

**STIPULATION AND ORDER**  
**JOINING ROYAL PALM SENIOR**  
**INVESTORS, LLC AS AN**  
**INVOLUNTARY PLAINTIFF**

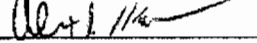
IT IS HEREBY STIPULATED AND AGREED, by and between plaintiff Guy T. Mitchell ("Mitchell") and defendant Carbon Capital II, Inc. ("Carbon II"), through their undersigned counsel, that, pursuant to Rules 17, 19 and 21 of the Federal Rules of Civil Procedure, Royal Palm Senior Investors, LLC ("Royal Palm") is required to be joined to this action as an involuntary plaintiff, for the reasons that follow:

1. Royal Palm is subject to service of process;
2. Joinder of Royal Palm will not deprive the Court of subject-matter jurisdiction, as there will continue to be complete diversity pursuant to 29 U.S.C. § 1332;
3. The Court has personal jurisdiction over Royal Palm, as Royal Palm has consented to the jurisdiction of the Court;
4. In Royal Palm's absence, the Court cannot accord complete relief among Mitchell and Carbon II;
5. Royal Palm claims an interest relating to the subject of this action;
6. Royal Palm is so situated that disposing of this action in Royal Palm's absence may as a practical matter impair or impede Royal Palm's ability to protect its interest, if any;

7. Royal Palm is so situated that disposing of this action in Royal Palm's absence may leave Mitchell and/or Carbon II subject to a substantial risk of incurring multiple, or otherwise inconsistent obligations because of Royal Palm's interest, if any; and

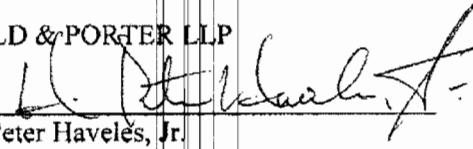
8. Joinder of Royal Palm as an involuntary plaintiff would not make venue improper, as Royal Palm has consented to this District and Carbon II resides in this District.

SIDLEY AUSTIN LLP

By   
Nicholas P. Crowell  
Isaac S. Greaney  
Alex J. Kaplan  
787 Seventh Avenue  
New York, New York 10019  
(212) 839-5300  
*Counsel for Defendant Carbon Capital II, Inc.*

Dated: May 27, 2008

ARNOLD & PORTER LLP

By   
H. Peter Haveles, Jr.  
Jonathan N. Francis  
399 Park Avenue  
New York, NY 10022-4690  
(212) 715-1000  
*Counsel for Plaintiff Guy T. Mitchell*

Dated: May 27, 2008

SO ORDERED:

  
U.S.D.J.

Dated: 5-27-08